Air Pollution

INDUSTRY, LOCAL REGULATORS VOICE CONCERN OVER EPA PLAN TO TIGHTEN NEW SOURCE REVIEW

An Environmental Protection Agency initiative to tighten state review of new air pollution sources has industry officials concerned about more stringent standards and local regulators worried about paperwork burdens, according to representatives from the two sectors.

A Dec. 1, 1987, memorandum from EPA headquarters directed the agency's regional offices to impose a new "top-down" approach to determining best available control technology for new sources in areas that are in compliance with federal air quality standards.

Companies building new facilities would be required to achieve the lowest achievable emission rate unless they could prove the controls are economically or technologically infeasible, the memo said. This is a shift from past practice, in which the regulatory agency had to prove a more stringent control was feasible.

The process would continue, with states and sources examining successively less stringent controls, until one is determined to be economically and technically feasible, according to the memo by J. Craig Potter, EPA assistant administrator for air and radiation.

For new sources in areas that meet ambient air quality standards, the Clean Air Act requires installation of BACT, defined as the best available control technology that has been demonstrated adequately and is economically feasible. The permits are known as "prevention of significant deterioration" permits.

New sources in non-attainment areas must conform to lowest achievable emission rates, regardless of cost.

"Of all the new source review processes, BACT (and LAER) determinations are perhaps the most misunderstood and the least correctly applied," Potter said. "The BACT alternatives, if presented by the applicant at all, are often poorly documented or biased to achieve the decision the applicant desires."

Potter said the main outstanding concern faced by the agency in these programs is inadequate implementation. In response EPA will offer technical assistance and training along with increased oversight of state programs, he said in the memo.

Ernest S. Rosenberg, executive director of the National Environmental Development Association, told BNA March 29 that forcing new source operators to document that a BACT alternative is too strict represents a significant change for most of EPA's regions. It also is expected to result in tougher permits in some cases, he added. NEDA represents heavy industries and their employee unions.

Under the former system, facility operators typically would present two or three control options, including the preferred option, along with supporting analyses, Rosenberg said. State regulators would choose the option, but normally would do little actual analysis unless they disputed the industry analyses or sought a different option, he said.

The policy shift may result in stricter permitting, but many new facilities will be unaffected because operators routinely choose more stringent control equipment than required, for a variety of reasons, Rosenberg said.

Allowing states to consider economic factors in BACT determinations also "softens it a bit," he added.

Concerns Of State, Local Regulators

John M. Daniel, assistant executive director of the Virginia Air Pollution Control Board, told BNA March 17 that the system could lead to inappropriate control decisions. He said his greatest concern is the lack of "a clear end-point in the analysis requirements."

Daniel also said Potter's memo ignores the Air Act's requirement that environmental effects be weighed in BACT determinations. "If the effect of a plant's emissions is less than EPA defines as significant," he said, extremely stringent controls may not be warranted.

The memo also outlines a new permit tracking system, under which states must send the regional office copies or summaries of each new source permit application, along with the public notification package, the proposed permit, final pre-construction and operating permits, responses to public comments, and technical analyses of BACT, LAER, air quality impacts, and offset requirements.

These tracking systems will be required "initially and until such time as permit quality can be assured," Potter said in the memo. It is critical for EPA to comment on proposed permits during the public comment period, because a 1985 audit revealed "widespread serious permit deficiencies, many of which could have been corrected" before the permits became final, he said. Correcting problems after final permits are issued is far more difficult, Potter added.

Reviews of state permit actions are appropriate, "but there are serious questions concerning the regional offices' ability to perform the specified reviews," the Association of Local Air Pollution Control Officials said in a Feb. 23 letter to Potter. The effort required of local agencies "may be a lot of work for little benefit," especially when the agency has a National Air Audit System available to track many of the same problems, the letter added.

The local officials' letter endorsed the top-down concept of new source review, however, and urged its immediate implementation.

Rosenberg also endorsed portions of the Potter memo, including a directive that regional offices review permit applications, including those deemed deficient, in a timely manner.

Although the permit tracking system represents an increased paperwork burden for state and local agencies, it also increases the prospects for meaningful public scrutiny of the permitting process, Rosenberg said.

Potter told BNA March 16 that the all-too-common state practice of equating BACT with EPA's new source performance standards no longer is sufficient to protect the environment. BACT, unlike new source performance standards, should be a "moving target" that reflects improving technology.

"You can't just delegate and assume it will go away," he told BNA. If EPA and states fail to address air quality

problems through the permit process, Congress may seek to impose tighter restrictions on permitting programs and reduce states' flexibility, Potter added.

Motor Vehicles

AUTOMOTIVE VAPOR RECOVERY EQUIPMENT POSES LITTLE HAZARD, AUTO SAFETY CENTER SAYS

The fire hazard posed by existing automobile evaporative emission control equipment is so small that larger systems could be required immediately to control refueling emissions at little risk to consumers, according to a report released March 28 by the Center for Auto Safety.

The report added that the recent increase in gasoline volatility is a major factor in motor vehicle fires and fatalities, and is a far greater safety risk than any modification to evaporative emission control systems.

In a prepared statement, Clarence Ditlow, director of the center, said the Environmental Protection Agency should move immediately to limit fuel volatility and to require refueling emission controls. The agency proposed both regulations in July 1987 as a way of controlling urban ozone pollution. Hydrocarbon emissions from vehicle refueling operations contribute to the formation of ozone, the United States' most pervasive urban air pollutant (18 ER 843).

Rep. John D. Dingell (D-Mich) and the Insurance Institute for Highway Safety first voiced their concerns in April 1987 over EPA's proposal to require "onboard" refueling equipment on motor vehicles rather than controls on service station pumps.

Dingell and Brian O'Neill, president of the institute, said the larger charcoal canisters and additional tubing could increase the risk of fires in auto accidents (18 ER 3).

The center analyzed the 4,276 safety-related recalls involving 130 million vehicles since 1966, as well as 146,000 vehicle safety reports filed with the National Highway Traffic Safety Administration since 1977. Only two safety-related recalls, affecting 11,911 vehicles, were caused by evaporative emission control equipment problems, according to the CAS report. Of 1,501 reported engine fires, only six were related to evaporative systems, with no deaths or injuries, the report added.

"The improved onboard systems under EPA's proposed evaporative control rule are only marginally more complex than present onboard systems," the report said. "Any increased crash safety risk from onboard systems would be a marginal increase in already minimal safety risk and could easily be handled by improved technology."

EPA also is studying a simplified refueling emission control system that would eliminate an external vent line. Robert Dewey, a CAS analyst, told BNA March 30 that future evaporative emission control equipment may be safer than current equipment, even with extra refueling emission controls.

Fuel volatility problems, meanwhile, have generated more than 100 reports to NHTSA per year since 1983, compared to less than 10 per year from 1978 to 1980, CAS said. Excess volatility has led to 12 recalls since 1979, involving 71 fires, 25 injuries and two deaths, according to the report.

From 1979 to 1986, average fuel volatility increased from 9.2 pounds to 10.4 pounds per square inch Reid vapor pressure, CAS said. This has led to greater incidence of fuel spurting, "overpressurized" fuel systems, vapor lock and fuel foaming, and fuel system degradation, according to the report. Fuel spurting is the most dangerous problem, while overpressurized systems are the most common complaint, CAS said.

Many of the fuel volatility problems are related to gasoline blended with alcohol, the report noted. Ethanol and methanol, when added to gasoline, elevate the vapor pressure by about one pound. States with "gasohol" market penetration greater than 7 percent produced 52 percent of the fuel safety complaints to NHTSA, although they had just 35 percent of the U.S. vehicle population, the report said.

Because fuel volatility poses an extreme safety hazard, EPA should establish a national fuel volatility standard of 9 pounds per square inch, the report said. No exemptions should be granted for alcohol fuels, it added.

"You can't assess the potential for problems based on existing equipment," John R. Cook, vice president for communications of the Insurance Institute for Highway Safety, told BNA March 25. EPA's proposed canisters would be four times larger than those now required for automobiles, and would involve additional tubing to reclaim the refueling vapors, he said.

"Our opposition remains unchanged," Cook said. "I don't know where you can get information on equipment that's not on cars."

The report, *Stopping Vehicle Fires and Reducing Evaporative Emissions: The Need to Control Gasoline and Alcohol Blend Volatility*, is being submitted to EPA. For copies or for more information, contact the center at 2001 S St. N.W., Suite 410, Washington, D.C. 20009; telephone (202) 328-7700.

Hazardous Waste

COLORADO OPPOSES SHELL, ARMY PROPOSAL TO FUND, CLEAN UP ROCKY MOUNTAIN ARSENAL

Colorado March 25 filed a protest in federal court, objecting to a recent proposed consent degree reached by the Army, Justice Department, and Shell Oil Co. to provide funding and clean up the Rocky Mountain Arsenal near Denver.

The state's objections touched on many of the provisions in the proposed agreement, but most criticisms hinged on the lack of authority granted Colorado in the proposal to oversee development and implementation of a cleanup plan for the former Army production facility and pesticide manufacturing site.

Colorado was joined by the attorneys general of Ohio and Minnesota in submitting comments critical of the decree. Minnesota officials added that the proposed decree should be modified to match more closely an agreement signed by the Army, the Environmental Protection Agency, and the state at the Twin Cities Army Ammunition Plant near Minneapolis, an agreement that the Army said it now questions (18 ER 1736).

Colorado found the "most objectionable" parts of the agreement to include:

- A limitation on future human access to the area, which it said would allow the Army to reduce the scope of the initial investigation and the remedy itself;
- Inadequate state participation in determining appropriate cleanup plans and levels; and
- A failure to assure compliance with Colorado's hazardous waste laws and regulations.

In its comments, Colorado, which has not signed the proposed consent decree, said it "applauds the efforts" of the United States and Shell to reach an agreement, particularly singling out Shell's commitment to fund a percentage of the cleanup.

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